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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,262	07/07/2001	Joseph Min H. Park	2018-3-11	7593

7590

03/12/2004

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EXAMINER

THISSELL, JEREMY

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 03/12/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/900,262

Applicant(s)

PARK, JOSEPH MIN H

Examiner

Jeremy T. Thissell

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 15, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice (US 2,507,815) in view of Han (US 3,946,733).

Rice teaches a vapor chamber having a lower and upper surface, using a "standard electrical heating unit" (col. 2, lines 50-51). However, Rice teaches use with minerals rather than herbs. It is well-known to administer herbal essence to the body in much the same way. Han teaches such administration of herbal essence, but to a more localized region of the body. It would have been obvious to use the chamber of Rice to administer herbal essence in a similar manner as Rice, but on a larger scale in order to achieve whole body healing.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice and Han as applied to claim 11 above, and further in view of Kim et al (WO 200269880 A1).

Rice and Han teach all the claimed subject matter except for lower protrusions for acupuncture points. Kim teaches a moxibustion device with pressure fingers for

acupuncture points. It would have been obvious to include acupuncture fingers on the device of Rice, since acupuncture and herbal therapy are often combined as taught by Kim for their synergistic effect.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice and Han as applied to claim 11 above, and further in view of JP 05124973 A.

Rice teaches all the claimed subject matter but uses an electrical heating element rather than a vibratory vaporizer. JP '973 teaches a vibratory vaporizer for herbal medicine. It would have been obvious to use any known method of vaporizing herbs to create the herbal smoke for the chamber of Rice, including the vibratory vaporizer taught by JP '973, as an art recognized equivalent, particularly since it appears that the device would work equally well with either means.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice and Han as applied to claim 11 above, and further in view of Shiu (US 4,203,438).

Rice and Han lack a teaching of multiple burners. Shiu teaches the use of multiple parallel burners. It would have been obvious to include parallel burners on Rice since duplication of parts is within the level of ordinary skill in the art and obvious for reasons of increased performance.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice and Han as applied to claim 11 above, and further in view of Lee (US 6,013,021).

Rice and Han lack a teaching of negatively ionized air. Lee teaches a method of alternative medicine including herbal treatment (col. 4, line 20) combined with administration of ionized air (brief summary). Ionized air is widely used for its purification/purified properties, and is often combined with other forms of alternative medicine such as herbal treatments. It would have been obvious to combine the ionized air treatment of Lee with the device of Rice so as to supply the chamber with purifying/purified air.

***Allowable Subject Matter***

Claim 1-10 are allowed.

Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach the upper cover and lower mat having "5 primary substance" stones. Applicant's invention includes an upper cover and lower mat that both have a layer of ground substances. The substances are chosen to represent/treat the 5 primary substances (aka the 5 elements), which are water, wood, fire, earth, and metal. It is common for herbal/alternative treatments to consist of multiple herbs or substances in a "composition," each chosen to treat something different, e.g. yin and

Art Unit: 3763

yang, or the 5 elements. However, the prior art does not teach a device for herbal essence therapy wherein the upper cover and lower mat contain such a composition.

### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy T. Thissell whose telephone number is (703) 305-5261. The examiner can normally be reached on 8:30-7:00 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached at (703) 308-3552. The fax phone numbers for all fax communications is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jt  
March 6, 2004

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700